

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
CHARLES AND HELGA SCHONFELD)

Appearances:

For Appellants: William Grohne and
Harrison H. Simpson, of
Webb & Webb, Certified
Public Accountants

For Respondent: A. Ben Jacobson
Associate Tax Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Charles and Helga Schonfeld against proposed assessments of additional personal income tax in the amounts of \$692.13, \$399.57, \$1,535.24, and \$1,452.31 for the years 1959, 1960, 1961, and 1962, respectively.

This appeal and the Appeal of Sidney and Marie Schonfeld are companion cases to the Appeal of Continental Lodge, this day decided. Certain automobile, travel, and promotion expense deductions claimed by Continental Lodge were disallowed by respondent as being expenditures for the personal benefit of its officer-stockholders, Charles and Sidney Schonfeld, rather than ordinary and necessary business expenses of the corporation. Also disallowed for the same reason was an amount expended by the Continental Lodge on a European trip taken by Charles Schonfeld and his wife, Helga. The disallowed amounts attributed to appellants' personal benefit were included in their income as dividend distributions.

Appeal of Charles and Helga Schonfeld

Since we sustained respondent's determination in the Appeal of Continental Lodge, it follows that the disallowed amounts were properly included in appellants' personal income for the years in question. (Rev. & Tax. Code, § 17071; Appeal of Jack W. and Ruth-Simpson, Cal. St. Bd. of Equal., Feb. 3, 1965; Appeal of Howard N. and Thelma Gilmore, Cal. St. Bd. of Equal., Nov. 7, 1961.)

A separate issue raised by this appeal concerns the proper annual depreciation allowances for two apartment buildings which appellants either own or have an interest in. The first of these is a 36-unit apartment building known as the Continental Suites, which is located adjacent to the Continental Lodge. It is of the same type construction as the Lodge and is leased to the Lodge to provide accommodations for overflow customers of the Lodge and for those who wish hotel services. The Continental Suites is owned by Charles and Sidney Schonfeld as partners.

The partnership computed annual depreciation on the Continental Suites for 1961 and 1962 on the basis of a **25-year** estimated useful life. Respondent recomputed the partnership's allowable depreciation deduction on the basis of an estimated useful life of 40 years, the proper composite rate for apartment buildings, including components, according to **Bulletin F** of the Internal Revenue Service. The increase in partnership income which resulted from this adjustment gave rise to portions of the proposed additional assessments against appellants for 1961 and 1962.

The other property is a 24-unit apartment building located on El Camino Real in San Mateo, and owned by appellant Charles Schonfeld. In computing net rental income from that building in 1960, 1961, and 1962, appellants computed the annual depreciation deduction on the basis of an estimated useful life of 25 years. Respondent, again relying on the figures set forth in Bulletin F of the Internal Revenue Service, recomputed depreciation on the San Mateo apartment building and its **component parts**, using an estimated useful life of 40 years.

In support of their contention that each of these apartment buildings had an estimated useful life of only 25 years, appellants make the same *or* comparable arguments as those made in Appeal of Continental Lodge, with respect to the proper estimated useful life of the Lodge. For the same reasons stated in our opinion in that appeal, we conclude that appellants have failed to prove respondent's determination as to the estimated useful lives of the Continental Suites and the San Mateo apartment building to be incorrect.

Appeal of Charles and Helga Schonfeld

Another issue originally raised by this appeal was settled prior to the oral hearing. Appellants conceded that the amounts which they received from their corporation, Continental Lodge, to reimburse them for their uninsured medical expenses in each of the years on appeal were **includible** in their personal income. Respondent stipulated, however, that appellants were entitled to deductions for medical expenses paid in those years in accordance with the provisions of relevant statutes in effect at the time.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Charles and Helga Schonfeld against proposed assessments of additional personal income tax in the amounts of \$692.13, \$399.57, \$1,535.24, and \$1,452.31 for the years 1959, 1960, 1961, and 1962, respectively, be and the same is hereby modified in that appellants are to be allowed medical expense deductions for each of the years on appeal in accordance with the statutes in effect in those years. In all other respects, the action of the Franchise Tax Board is sustained.

Done at Sacramento, California, this 10th day
of May, 1967, by the State Board of Equalization.

_____, Chairman
John W. Lynch
_____, Member
Robert K. Kelly
_____, Member
Richard L. Smith
_____, Member

ATTEST: *[Signature]*, Secretary